



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

December 1, 2010

CBCA 2113-RELO

In the Matter of EDMUND A. LESINSKI

Edmund A. Lesinski, Renton, WA, Claimant.

Cheryl Holman, Assistant Chief, PCS Travel Division, Financial Services Center, Department of Veterans Affairs, Austin, TX, appearing for Department of Veterans Affairs.

GILMORE, Board Judge.

Claimant, Edmund A. Lesinski, has asked the Board to review the denial of his request to be approved for the Guaranteed Home Buyout Option (GHBO) as a part of his relocation entitlements when he transferred from Canandaigua, New York, to Seattle, Washington. His agency, the Department of Veterans Affairs (VA), maintains that the GHBO is not a mandatory option, but a discretionary one, and that the program office determined, after reviewing the GHBO costs, that this option would no longer be available to interns in the Technical Career Field (TCF) program after August 19, 2009, the date the policy change was issued.

Background

Claimant applied for, and was accepted into, the VA's TCF intern program in June 2008. The program was a two-year program at the Canandaigua, NY Medical Center. The intern program vacancy announcement provided that "[r]elocation expenses to training sites is not authorized, however, placement to [a] new permanent VA Medical Center upon graduation is authorized." The VA's acceptance letter to claimant dated July 3, 2008, stated: "The VA will pay for expenses associated with any **one** move." There was no reference to the GHBO in either the VA's vacancy announcement or the acceptance letter sent to

claimant. Claimant contends, however, that he read an online presentation on the TCF program in August of 2008 which stated that the GHBO was an entitlement. He contends that when he signed the mobility agreement required by the VA at the time he was accepted into the program, he relied on the GHBO being available in the event he was required to relocate. Again, there is no reference to the GHBO in the mobility agreement.

Although claimant had received some indication midway through the program that he might be retained at Canandaigua, New York, he was told near the end of January 2010 that he was going to be relocated to Seattle, Washington. At this time, the GHBO was no longer available. The policy change to eliminate the GHBO option was made on August 19, 2009. Interns who were not approved for the GHBO before this date were denied the GHBO. This policy change mainly affected the entering intern class of 2008, since they would be receiving their permanent location assignments around mid-2010.

When claimant was counseled in April 2010 regarding his relocation to Seattle, Washington, he was told that the GHBO was not available, and that he was authorized to participate in either the Buyer Value Option (BVO) program with the relocation contractor, or he could sell the home on his own under the Direct Reimbursement (DR) program. Claimant's travel authorization dated April 27, 2010, listed the BVO as the real estate transaction option, although he continued to seek approval for the GHBO.

Claimant became dissatisfied with the BVO and requested that his travel authorization be amended to allow him to participate in the DR program instead of the BVO. This amendment was made by VA on May 24, 2010. Claimant has continued to experience difficulties in the sale of his home in New York. He feels he was wrongfully denied the GHBO and has asked the Board to review the agency's denial of this option.

Discussion

The Federal Travel Regulation, 41 CFR 302-3.101 (2009), provides information on what relocation allowances agencies must pay or reimburse a transferred employee and what allowances are at the agency's discretion. While the regulations provide that certain expenses/reimbursements for the sale and purchase of a home are mandatory, there are other programs and initiatives that may be offered at the agency's discretion. The GHBO program is such a program. The VA's program office examined the costs of the program and decided that after August 19, 2009, the program would no longer be offered. Claimant is effectively asking the Board to order the VA to allow claimant the GHBO, notwithstanding this determination by the agency.

The VA's decision not to offer the GHBO option after August 19, 2009, is permissible under the applicable regulation. We could require the agency to make the option available to claimant only if it had promised to do so prior to that date. Although claimant alleges that the agency had done so, our review of the evidence persuades us that it did not. The vacancy announcement, and the mobility agreement that claimant signed when he entered into the TCF program, did not mention this option. Claimant asserts that he read about the availability of the GHBO to interns on the internet in 2008 and relied upon that information. However, even if the information on the GHBO appeared to apply to incoming interns, the option is one that is offered to interns receiving orders to relocate. Because the regulations allow the option to be offered at the agency's discretion, the program's availability may change from time to time depending on the agency's policy and budget considerations. We conclude that the VA appropriately made available to claimant the options it provided in 2010, when he was directed to relocate to Seattle.

Decision

The claim is denied.

BERYL S. GILMORE
Board Judge